

REMARKS**Summary of the Office Action**

Claims 1-6, 8-11 and 13-16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Okada et al. (EP Patent No. 0847196) (hereinafter “Okada”).

Claims 1, 3, 5-6, 8, 10-11, 13 and 15-16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Arai et al. (U.S. Patent No. 5,576,758) (hereinafter “Arai”).

Claims 7, 12 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Summary of the Response to the Office Action

Applicants have amended dependent claims 7, 12 and 17 to be rewritten in independent form in response to the Examiner’s indication of allowable subject matter. Applicants have amended independent claims 1, 3, 8 and 13, and dependent claims 2, 4-6, 9-11 and 14-16 to differently describe embodiments of the disclosure of the instant application and/or to improve the form of the claims. Accordingly, claims 1-17 remain currently pending and under consideration.

Objections to Claims 7, 12 and 17

Claims 7, 12 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner is thanked for this indication of allowable subject matter. Accordingly, Applicants have opted to amend claims 7, 12 and 17 to now be rewritten in independent form. Accordingly, newly-amended independent claims 7, 12 and 17 are now in prima-facie condition for allowance in light of the Office Action's indication of allowable subject matter. Accordingly, withdrawal of the objections to claims 7, 12 and 17 is respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claims 1-6, 8-11 and 13-16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Okada. Claims 1, 3, 5-6, 8, 10-11, 13 and 15-16 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Arai. Applicants have amended independent claims 1, 3, 8 and 13, and dependent claims 2, 4-6, 9-11 and 14-16 to differently describe embodiments of the disclosure of the instant application and/or to improve the form of the claims. To the extent that these rejections might be deemed to still apply to the claims as newly-amended, the rejections are respectfully traversed for at least the following reasons.

Independent claim 1 of the instant application has been newly-amended to describe a combination of features that includes attribute information which indicates at least audio coding mode, audio application mode, quantization, number of audio channels, and bit rate. Applicants respectfully submit that this attribute information is described, for example, at page 13, line 19 –

page 14, line 2 of the specification of the instant application. Applicants respectfully submit that at least this attribute information feature is not disclosed in any of the cited references.

More particularly, Applicants respectfully submit that the newly-recited attribute information feature is not disclosed in Arai although Fig. 3 shows “packet attribute” and claim 9 recites a compression rate.

Similarly, Applicants respectfully submit that the newly-recited attribute information feature is not disclosed in Okada although Fig. 29 shows audio encode bit rate and audio encoding system.

Even further, with regard to the Maruyama reference mentioned at page 4 of the Office Action, Applicants respectfully submit that Maruyama shows attribute information of an audio stream in Fig. 17. However, Applicants respectfully submit that this attribute information as disclosed in Maruyama is different from the newly-recited attribute information feature in independent claim 1 of the instant application.

The remaining independent claims 3, 8 and 13 have been amended to include similar features as discussed above with regard to newly-amended independent claim 1. Accordingly, similar assertions as discussed above with regard to newly-amended independent claim 1 also apply to newly-amended independent claims 3, 8 and 13.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 102(b) should be withdrawn because Okada or Arai do not teach or suggest each feature of newly-amended independent claims 1, 3, 8 or 13 of the instant application. As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either

expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)."

Furthermore, Applicants respectfully assert that the dependent claims 2, 4-6, 9-11 and 14-16 are allowable at least because of their dependence from newly-amended independent claim 1, 3, 8, or 13, and the reasons discussed previously.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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